

THE UNITED STATES DISTRICT COURT
THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

BRENDA H. SOLIZ, Individually and as
Representative of the Estate of TOMAS
FLORES SOLIZ, JR.
Plaintiff,

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§
§

VS.

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CIVIL NO. SA-16-CV-370

THE UNITED STATES OF AMERICA,

Defendant.

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PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Now comes, BRENDA H. SOLIZ, Individually, and as Representative of the Estate of TOMAS FLORES SOLIZ, JR., hereinafter referred to as Plaintiff in the above styled and numbered cause, complaining of the UNITED STATES OF AMERICA, hereinafter referred to as Defendant, and for cause of action would respectfully show unto the Court as follows:

JURISDICTION

1. Jurisdiction in this case is founded on the Federal Tort Claims Act, Title 28 U.S.C. §1346(b), and 28 U.S.C. §1367. The amount in controversy exceeds the sum of \$100,000.00, exclusive of interest, costs, and attorney's fees.

VENUE

2. Plaintiff, BRENDA H. SOLIZ, is a resident/citizen of San Antonio, Bexar County, Texas.

3. Each of the relevant acts complained of occurred in San Antonio, Bexar County, Texas, within the San Antonio Division of the United States District Court for the Western District of Texas.

ADMINISTRATIVE CLAIMS

5. Plaintiff, BRENDA H. SOLIZ, Individually and As Representative of the Estate of TOMAS FLORES SOLIZ, JR., Deceased, has filed her original Claims for Damages with the Department of the Army, Brooke Army Medical Center, Fort Sam Houston, Texas, and the Department of the Air Force, Randolph Air Force Base, Texas, which were received by the Departments of the Army and Air Force on August 20 and 21, 2015, respectively, more than six (6) months prior to the filing of this Original Complaint. The Departments of the Army and Air Force have not denied the Plaintiff's claims; however, the investigative six (6) month period has expired as of February 21, 2016.

SERVICE

6. Service of citation may be had upon the Defendant, UNITED STATES OF AMERICA, by serving its agent, Richard L. Durbin, United States Attorney for the Western District of Texas, at his office located at 601 NW Loop 410, San Antonio, Bexar County, Texas 78216, and by sending a true and correct copy of this Complaint by Certified Mail, Restricted Delivery, to The Honorable Loretta Lynch, Attorney General of the United States, The Department of Justice, 10th and Constitution N.W., Room B-112, Washington, D.C. 20530.

AGENCY

7. The Defendant, UNITED STATES OF AMERICA, acting by and through its agents, servants and/or employees of the Department the Army, owns and operates the Brooke Army Medical Center located at Fort Sam Houston, Bexar County, Texas, and owns and operates the Randolph Air Force Base Clinic, Randolph Air Force Base, Bexar County, Texas. Said facilities provides healthcare services for persons such as TOMAS FLORES SOLIZ, JR.

FACTUAL BACKGROUND

8. TOMAS FLORES SOLIZ, JR., was a 43 year old man who was born on January 30, 1972, and who died on March 17, 2015. On March 12, 2015, TOMAS FLORES SOLIZ, JR., was taken to the Brooke Army Medical Center Emergency Room complaining of “the worst headache he’d ever had”. His chief complaint was noted to be an acute severe headache with nausea/vomiting and dizziness. Additionally, his blood pressure was elevated periodically while he was in the Emergency Room. Although Mr. SOLIZ had a history of migraines, he informed his health care providers that this headache was different and much worse from his previous migraines. He gave an additional history of having been sleeping, and was awakened by a severe headache. The medical records indicate that Mr. SOLIZ reported that he was a daily smoker, drank several alcoholic beverages each week, and had a history of sleep apnea. The differential diagnosis in the Brooke Army Medical Center Emergency Room was “**subarachnoid hemorrhage v. migraine v. meningitis**”. Laboratory work, including a lumbar puncture, and a head CT without contrast were ordered and obtained. Subsequently, Mr. SOLIZ was treated with IV hydration and pain/nausea medications, and he was then discharged to his home without a follow-up appointment or referral.

9. On March 16, 2015, Mr. SOLIZ was seen at the Randolph Air Force Base Clinic again complaining of another extremely severe headache, which he had attempted to treat with Motrin and Phenergan. His previous Emergency Room work up was reviewed, and it was noted that his CSF proteins was 258, hemoglobin 12.9, and his WBC was 11.6 with elevated lymphocytes. A neurology referral was placed, but Mr. SOLIZ was again discharged to his home without any further treatment or referrals.

10. On March 17, 2015, Mr. SOLIZ died at his home from a previously undiagnosed subarachnoid hemorrhage, caused by a ruptured cerebral aneurysm.

NEGLIGENT ACTS AND/OR OMISSIONS

11. Plaintiff, BRENDA H. SOLIZ, Individually and as Representative of the Estate of TOMAS FLORES SOLIZ, JR., Deceased, would show that the Defendant, UNITED STATES OF AMERICA, acting by and through its agents, servants and/or employees at Brooke Army Medical Center, and the Randolph Air force Base Clinic, was negligent in the healthcare and treatment provided to TOMAS FLORES SOLIZ, JR., and that such negligence was a direct and proximate cause of his death and the injuries and damages suffered by the Plaintiff herein. Such negligent acts and/or omissions include, but are not limited to the following:

- (A) Failure to timely diagnose, refer, hospitalize, and/or treat TOMAS FLORES SOLIZ, JRs', subarachnoid hemorrhage caused by a ruptured cerebral aneurysm; and
- (B) Failing to act as physicians and healthcare providers of ordinary prudence would have acted under the same or similar circumstances.

12. Each and all of the above foregoing acts of the Defendant, both of omission and commission, were negligent and constituted negligence, and each and all were a proximate cause of the injuries and damages sustained by the Plaintiff herein.

DAMAGES

13. Plaintiff, BRENDA H. SOLIZ, in her individual capacity, would show that the negligent acts and/or omissions of the Defendant were a direct and proximate cause of the injuries and damages resulting from the premature death of TOMAS FLORES SOLIZ, JR. Plaintiff seeks to recover her pecuniary loss in the past, and the pecuniary loss that, in reasonable probability, will be sustained in the future. Plaintiff, in her individual capacity, also seeks to recover her loss of companionship and society sustained in the past, and the loss of companionship and society that,

in a reasonable probability, will be sustained in the future. Plaintiff, in her individual capacity, seeks to recover her mental anguish sustained in the past, and the mental anguish that, in reasonable probability, will be sustain in the future. Plaintiff, in her individual capacity, also seeks to recover all medical expenses she incurred, and will, in a reasonable probability, continue to incur, and for her loss of inheritance, together with all other damages allowable, pursuant to provisions of the Texas Wrongful Death Statute.

14. Plaintiff, BRENDA H. SOLIZ, as Representative of the Estate of TOMAS FLORES SOLIZ, JR., Deceased, seeks to recover for his physical pain and mental anguish that he sustained between March 12, 2015 and his death on March 17, 2015. Plaintiff, BRENDA H. SOLIZ, as Representative of the Estate of TOMAS FLORES SOLIZ, JR., Deceased, also seeks to recover all medical and funeral expenses of TOMAS FLORES SOLIZ, JR., Deceased, together with all other damages allowable, pursuant to provisions of the Texas Survival Statute.

DAMAGE LIMITATIONS

15. Plaintiff believes and alleges that the damages caused by the negligent acts of omissions and/or commissions of the Defendant, has injured the Plaintiff in an amount within the jurisdictional limits of this Court.

16. WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that the Defendant herein be duly cited to appear and answer herein, and that upon final hearing of this suit, Plaintiff have and recover judgment from the Defendants, in an amount within the jurisdictional limits of this Court, together with post-judgment interest as allowed by law, plus reasonable costs of Court, and for such other and further relief, both general and special, in law and equity, to which the Plaintiff may show herself to be justly entitled.

Respectfully submitted,

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